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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,047	10/03/2003	Eric M. Watts	427600700078	5333

7590 02/28/2004  
H. Duane Switzer  
Jones Day  
North Point  
901 Lakeside Avenue  
Cleveland, OH 44114-1190

EXAMINER

ESTRADA, ANGEL R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 02/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/679,047

Applicant(s)

WATTS ET AL.

Examiner

Angel R. Estrada

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/3/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:

In page 3 line 25, change "screw 6" to --screw 4--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Pelzer (US 5,212,349).

Regarding claim 1, Pelzer discloses a cylindrical duct (12) having a peripheral wall with cylindrical inner and outer surface (see figure 10), a wire (14) extending longitudinal of said duct (12) between said inner and outer surfaces (see figure 10), said duct (12) being of a first plastic material (column 10 line 39-41), an external stripe (see figure 10) of a second plastic material (20) extending longitudinally of said duct (12) in alignment with said wire (14), and said second plastic material (20) being exposed on said outer surface (see figure 10) and having a different visual appearance than said first plastic material (see figure 10).

Regarding claim 2, Pelzer discloses the duct (12) wherein said second plastic material (20) has a different color than said first plastic material (see claim 11).

Regarding claim 3, Pelzer discloses the duct (12) wherein said second plastic material (20) is softer than said first plastic material (column 1 lines 64-68).

Regarding claim 4, Pelzer discloses the duct (12) wherein said first plastic material is high-density polyethylene (column 10 line 39-42) and said second plastic material (20) is a lower density polyethylene (see claim 11).

Regarding claim 5, Pelzer discloses the duct (12) wherein said wire (14) is located at an interface between said first and second plastic materials (see figure 10).

Regarding claim 6, Pelzer discloses the duct (12) wherein said wire (14) is encapsulated in said second plastic material (20, see figure 10).

Regarding claim 7, Pelzer discloses the duct (12) wherein said first (column 10 lines 39-41) and second plastic materials (20) and said wire (14) are coextruded and said first and second plastic materials are cross linked (see figure 10).

Regarding claim 8, Pelzer discloses the duct (12) wherein said second plastic material (20) forms a concave depression in said outer surface extending longitudinally of said duct (column 9 line 67-column 10 line 1).

Regarding claim 9, Pelzer discloses the duct (12) wherein said second plastic material (20) forms a convex bulge in said outer surface extending longitudinally of said duct (column 9 line 67-column 10 line 1).

Regarding claim 10, Pelzer discloses a method of providing an external locator stripe for a wire (14) embedded in a peripheral wall of a conduit (12) comprising the steps of coextruding a duct (12) of a first plastic material (column 10 line 39-41) together with a wire (14) and a stripe of a second plastic material (20) that overlies the wire (see figure 10).

Regarding claim 11, Pelzer discloses the method wherein said step of coextruding is carried out with a first plastic material of high density polyethylene (column 10 lines 39-41) and a second plastic material (20) of lower density polyethylene (see claim 11).

Regarding claim 12, Pelzer discloses the method wherein said step of coextruding is carried out, with a second plastic material (20) having a different color (see claim 11) than said first plastic material (column 10 lines 39-41).

Regarding claim 13, Pelzer discloses the method wherein said step of coextruding is carried out by locating said wire (14) at an interface between said first and second plastic materials (see figure 10).

Regarding claim 14, Pelzer discloses the method wherein said step of coextruding is carried out by encapsulating said wire (14) in said second plastic material (see figure 10).

Regarding claim 15, Pelzer discloses the method wherein said step of coextruding is carried out by extruding said second plastic material (20) to provide a depression (column 9 line 67-column 10 line 1) therein extending longitudinally of the exterior surface of said conduit (see figure 10).

Regarding claim 16, Pelzer discloses the method wherein said step of coextruding is carried out by extruding said second plastic material (20) to provide a convex bulge (column 9 line 67-column 10 line 1) therein extending longitudinally of the exterior surface of said conduit (see figure 10).

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**Conclusion**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cosman et al (US 5,045,368), Karl (US 6,135,159), Petzatakis (US 3,555,170), Jackson (US 3,580,983), Goodman (US 5,036,210), Clark, Jr. et al (US 5,532,598), Maccario (US 6,092,558), Sherlock (US 3,367,370), Gilbert (US 4,781,958), Ramsey et al (US 4,988,236) and Eslambolchi et al (US 6,609,855) disclose a duct with locator devices

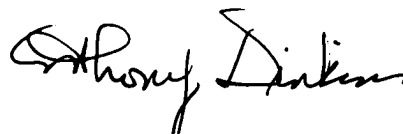
4. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

AE

February 13, 2004

  
ANTHONY DINKINS  
PRIMARY EXAMINER